

Remarks

Claims 1-19 were pending, (claims 8-17 were withdrawn by the Examiner).

Claims 1, 8-11, 13-16, 18 and 19 are amended.

Claim 2 is original.

Claims 3- 6 and 12 are as previously presented.

Claims 7 and 17 are cancelled.

The application now contains claims 1-6, 8-16, 18 and 19.

Claim 1 is amended to more clearly focus on certain embodiments of Applicants invention by deleting the term “3-aryl-2-cyano-3-hydroxy-acrylic acid derivates” from line 1 and inserting in its stead the word “Compounds”; to delete formulae (1b) and (1c); and to delete “hydrogen, C₁-C₂₀alkyl; C₁-C₂₀alkoxy; CF₃;” from the definition of R₁.

Claim 8 is amended to delete the phrase “R₁ and R₂ are defined as in claim 1” and to insert in its stead the limitations of the variables from instantly amended claim 1.

Claim 9 is amended to delete the phrase “of formulae (1a), (1b) or (1c) according to claim 1” and insert in its stead the formula and limitations of (1a) from instantly amended claim 1.

Claims 10, 11, 13-16, 18 and 19 are amended to delete references to formulae (1b) and (1c).

Claims 10 and 11 are further amended to be dependent on claim 9; claim 11 is also amended for clarity by deleting the phrase “wherein treatment with...results in” beginning in line 1 is deleted and replaced with “which comprises”.

Claim 13 is amended to replace “used in preservation” with “is applied as a preservative”.

Claims 15 and 16 are amended to replace “results in” with “which comprises”. Claim 18 and 19 are amended to note that the compounds are according to claim 1.

Support is inherent in the claims. No new matter is added.

Objections / Rejections

Claim 1-7 and 18-19 are objected to for containing non-elected subject matter; claim 1 is also objected to for beginning with a numeral.

Applicants respectfully submit that the above amendments have addressed and overcome the objections and kindly ask that the objections be withdrawn.

Claims 1-7 and 18-19 are rejected under 35 USC 112 first paragraph for use of the undefined term "derivatives" and 35 USC 112 second paragraph for being drawn to "3-aryl-2-cyano-3-hydroxy-acrylic acid derivates".

Applicants respectfully traverse the rejections.

While Applicants do not agree that the terminology of the original claims created uncertainty, the terms in question are not necessary and to further prosecution the questionable terms are replaced according to the above amendments with the word "compounds".

Applicants respectfully submit that the above amendments have addressed and overcome the rejections of claims 1-7 and 18-19 under 35 USC 112 and kindly ask that the rejections be withdrawn

Claims 1 and 4 are rejected under 35 USC 102(b) as being anticipated by Murray, et.al., US 5,686,228.

Applicants respectfully traverse the rejections.

The claims as instantly amended claim relate only to compounds wherein the phenyl ring is substituted by an aromatic moiety such as biphenyl compounds. Applicants respectfully aver that as no such compounds are found in Murray no anticipation can exist and the instant compounds are well outside the disclosure of Murray.

Applicants therefore kindly ask that the rejections of claims 1 and 4 under 35 USC 102(b) be withdrawn.

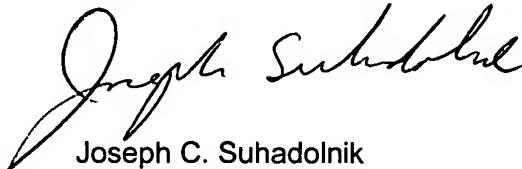
Applicants also point to the data in the Examples beginning on page 16 of the instant specification showing the excellent antimicrobial activity of the instant biphenyl compounds. No suggestion of such activity is found in Murray. Murray therefore does not disclose the instant compounds nor suggest the instantly exemplified antimicrobial activity.

In light of the above, Applicants respectfully submit that all objections and rejections are overcome. Applicants therefore kindly ask all objections and rejections be withdrawn and that claims 1-7, 18 and 19 be found allowable.

Applicants also respectfully note that all claims, including withdrawn claims 8-16 as instantly amended, refer only to the novel compounds of instantly amended claim 1 which Applicants respectfully submit constitutes a unifying technical feature under PCT rules. Therefore Applicants further kindly ask that upon finding claims 1-7, 18 and 19 allowable that the Examiner rejoin claims 8-16 in their present form and find them also allowable

In the event that minor amendments will further prosecution, Applicants request that the Examiner contact the undersigned representative.

Respectfully submitted,



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